

Reply to Office Action of: **March 17, 2006**

- II. Claims 12-23, drawn to a prosthetic device.
- III. Claims 24-27, drawn to a prosthetic knee.

Furthermore, in order to be responsive, Applicants provisionally elect Species I, related to the in line piston arrangement (FIGS 1 and 30). It is respectfully considered that all claims of the application are readable upon this species. This position of the Applicants was discussed with the Examiner in full detail during the resent telephone conference. This election is also with traverse.

ARGUMENTS

The undersigned wishes to thank Primary Examiner David H. Willse for the courtesy extended to him during the resent telephone conference conducted prior to filing of the Response.

In the Outstanding Office Action, the Examiner argues that the application contains claims directed to following patentably distinct species:

- I. in line piston arrangement (FIGS 1 and 30)
- II. dual piston arrangement (FIGS 11 and 25)

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which claims shall be restricted if no generic claim is finally held to be allowable. As discussed during the telephone conference with the Examiner, in order to be responsive, Applicants provisionally

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elected Species I associated with the in line piston arrangement (FIGS 1 and 30) for prosecution on the merits in the present case.

Applicants confirm their rights resulted from possible allowance of generic claims, wherein they will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of the allowed generic claims, as provided by 37 CFR 1.141 .

Furthermore, restriction to one of the following inventions is also required by the Examiner under 35 U.S.C. 121:

- I. Claims 1-11, drawn to a prosthetic knee cage, classified in class 623, subclass 39.
- II. Claims 12-23, drawn to a prosthetic device, classified in class 623, subclass 26.
- III. Claims 24-27, drawn to a prosthetic knee, classified in class 188, subclass 297+.

In the Response, Invention I, related to claims 1-11, drawn to a prosthetic knee cage, has been provisionally elected by the Applicants.

It has been clearly illustrated in the drawings and described by the specification that the prosthetic knee cage can be used not only independently, but also in combination with the prosthetic device identified by the Examiner as the Invention II (claims 12-23), as well as with the prosthetic knee unit identified by the Examiner as invention III (claims 24-27). Thus, while examining the provisionally elected claims 1-11, the Examiner has to search not only the

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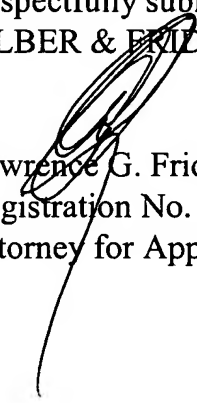
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prosthetic knee cage, but also a prosthetic device and prosthetic knee unit as discussed hereinabove.

Therefore, it would be no additional burden on the PTO if it were necessary for the Examiner to search all inventions/species identified by the Examiner in the same application. In such instance, M.P.E.P. encourages Examination of the entire application on its merits.

For all of the above reasons, it is believed that the restriction requirement be withdrawn and all species identified by the Patent Office are examined as a part of the present application.

Respectfully submitted,
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